NEGLIGENCE—"LAST CLEAR CHANCE DOCTRINE."—Plaintiff a messenger in defendant's railroad yards, was sent to the company's roundhouse for materials. The path thereto led over the tracks of the defendant, on which there was a line of box cars with a detached switch engine some ten feet therefrom with a man in the cab. While plaintiff was attempting to pass under the drawheads of the cars across the path, the switch engine backed against the cars, moving them and seriously injuring him. *Held,* (BROWN and WALKER, JJ., dissenting) that the question whether defendant's engineer knew of plaintiff's danger, or might have known thereof by exercising reasonable care, was for the jury, since the "last clear chance doctrine" applies, notwithstanding plaintiff's negligence, where his danger might have been discovered by exercising reasonable care as well as where it was actually discovered. *Edge* v. *Atlantic Coast Line R. Co.* (1910), — N. C. —, 69 S. E. 74.

The doctrine of "last clear chance"—that the party who last has a clear opportunity of avoiding the accident, notwithstanding the negligence of the other party, is considered solely responsible for it—has been adopted in nearly all jurisdictions. See note, 55 L. R. A., pp. 418-465. Where the accident is due to the failure to exercise ordinary care after the defendant actually discovers the peril, the cases are substantially agreed that the antecedent negligence of the plaintiff will not prevent recovery; but there is considerable difference of opinion as to whether the doctrine should be extended to cases where the peril was not discovered, but might have been by the exercise of ordinary care. In the principal case the North Carolina court takes the view that it should be so extended, and in this it is supported by the following decisions: *Denver City Tramway Co.* v. *Wright* (1910), 47 Colo. 366, 107 Pac. 1074; *Matz* v. *Mo. Pac. Ry. Co.* (1910), 217 Mo. 275, 117 S. W. 584; *Phila. & R. Ry. Co.* v. *Klutt* (1906), 148 Fed. 818; *Louisville & N. R. Co.* v. *Earl's Adm'x.*, 94 Ky. 368, 22 S. W. 607; while the courts in the following cases have refused to so extend it: *San Antonio Tract. Co.* v. *Kelleher* (1908), 48 Tex. Civ. App. 421, 107 S. W. 64; *St. Louis S. W. R. Co.* v. *Cochran* (1906), 77 Ark. 398, 91 S. W. 747; *Sauer* v. *Eagle Brewing Co.* (1906), 3 Cal. App. 127, 84 Pac. 425; *Dotta* v. *N. P. Ry. Co.* (1904), 36 Wash. 506, 79 Pac. 32. The dissenting opinion in the principal case was based upon the view that the engineer owed no duty to plaintiff to watch his movements, and therefore it was improper to submit to the jury the question whether, by the exercise of reasonable care, he might have known of plaintiff's danger.

PARENT AND CHILD—CONTRIBUTORY NEGLIGENCE OF CUSTODIAN IMPUTED TO PARENT.—A boy of six and his sister, who lacked only ten days of being fourteen years old, attempted to cross defendant's tracks while the crossing gates were down. The girl was bright, intelligent, and familiar with the danger; the boy had been intrusted to her care by the father, who had often warned the girl to be careful in crossing railroad tracks. A train, alleged to have been running too fast, struck the children, without warning, and killed them both. The parents sued, apparently, in their own right, for loss of services, though the report is not clear on this point. *Held,* the presumption that the girl was *non sui juris* was rebutted; she was guilty of contrib-